

ASSEMBLY BILL

No. 215

Introduced by Assembly Member Chesbro

January 31, 2013

An act to amend Section 42301 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 215, as introduced, Chesbro. Solid waste recycling.

The California Integrated Waste Management Act of 1989 requires rigid plastic packaging containers that are sold or offered for sale in this state to meet, on average, one of specified criteria and defines terms for purposes of those requirements. One of those criteria that a rigid plastic packaging container may meet to satisfy this requirement is that the container be source reduced. The act provides for the enforcement of these requirements by the Department of Resources Recycling and Recovery and provides that an entity making a false certification pursuant to those requirements is subject to a violation for fraud.

This bill would revise the definitions of the various terms used in the those requirements, including revising the definition of the term “source reduced” to impose new requirements, thereby imposing a state-mandated local program by changing the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 42301 of the Public Resources Code is amended to read:

42301. For purposes of this chapter, the following definitions apply:

(a) “Container manufacturer” means a company or a successor company that *manufactures and* sells any rigid plastic packaging container subject to this chapter to a manufacturer that sells or offers for sale in this state any product packaged in that container.

(b) “Curbside collection program” means a recycling program that collects materials set out by households for collection at the curb at intervals not less than every two weeks. “Curbside collection program” does not include redemption centers, buyback locations, drop-off programs, material recovery facilities, or plastic recovery facilities.

(c) “Refillable package” means a rigid plastic packaging container that ~~the board determines~~ is routinely returned to and refilled by the product manufacturer *or its agent* at least five times with the original product contained by the ~~package~~ *rigid plastic packaging containers*.

(d) “Reusable package” means a rigid plastic packaging container that ~~the board determines~~ is routinely reused by consumers at least five times to store the original product contained by the package.

(e) “Manufacturer” means the producer or generator of a product that is sold or offered for sale in the state and that is stored inside of a rigid plastic packaging container.

(f) “Rigid plastic packaging container” means ~~any~~ *a* plastic ~~package~~ *packaging container* having a relatively inflexible finite shape or form, with a minimum capacity of eight fluid ounces or its equivalent volume and a maximum capacity of five fluid gallons or its equivalent volume, that is capable of maintaining its shape while holding other products, including, but not limited to, bottles, cartons, and other receptacles, for sale or distribution in the state.

(g) (1) “Postconsumer material” means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product lifecycle. ~~Postconsumer material~~

(2) *Except as provided in paragraphs (3) and (4), “postconsumer material ” does not include materials and*

1 byproducts generated from, and commonly reused within, an
2 original manufacturing and fabrication process.

3 (3) *“Postconsumer material” includes finished plastic packaging*
4 *that has been rejected by a container or product manufacturer,*
5 *and that would be commonly disposed of, if the department*
6 *determines the material is later used in a process that is other than*
7 *an original manufacturing and fabrication process.*

8 (4) *“Postconsumer material” includes a rigid plastic packaging*
9 *container holding an obsolete or unsold product that is commonly*
10 *disposed of, and not commonly reused, within an original*
11 *manufacturing process, if the rigid plastic packaging container is*
12 *used as feedstock for new rigid plastic packaging containers or*
13 *under the alternative compliance method established by Section*
14 *42310.3.*

15 (h) “Recycled” means a product or material that has been reused
16 in the production of another product and has been diverted from
17 disposal in a landfill.

18 (i) “Recycling rate” means the proportion, as measured by
19 weight, volume, or number, of a rigid plastic packaging container
20 sold or offered for sale in the state that is being recycled in a given
21 calendar year, that is one of the following:

22 (1) A particular type of rigid plastic packaging container, such
23 as a milk jug, soft drink container, or detergent bottle.

24 (2) A product-associated rigid plastic packaging container.

25 (3) A single resin type, as specified in Section 18015, of rigid
26 plastic packaging container, notwithstanding the exemption of that
27 container from this chapter pursuant to subdivision (b), (c), or (d)
28 of Section 42340.

29 (j) (1) “Source reduced container” means ~~either of the~~
30 ~~following:~~ *a rigid plastic container for which the container weight*
31 *per unit or number of product uses has been reduced by 10 percent*
32 *when compared with one of the following:*

33 ~~(A) A rigid plastic packaging container for which the~~
34 ~~manufacturer seeks compliance as of January 1, 1995, whose~~
35 ~~package weight per unit or use of product has been reduced by 10~~
36 ~~percent when compared with the packaging used for that product~~
37 ~~by the manufacturer from January 1, 1990, to December 31, 1994.~~

38 ~~(B) A rigid plastic container for which the manufacturer seeks~~
39 ~~compliance after January 1, 1995, whose package weight per unit~~

1 or use of product has been reduced by 10 percent when compared
2 with one of the following:

3 (i) ~~The~~

4 (A) *The rigid plastic packaging container* used for the product
5 by the manufacturer on January 1, 1995.

6 (ii) ~~The~~

7 (B) *The rigid plastic packaging container* used for that product
8 by the *product* manufacturer over the course of the first full year
9 of commerce in this state.

10 (iii) ~~The~~

11 (C) *A rigid plastic packaging container* used in commerce ~~that~~
12 *in this state during the same year for similar products in similar*
13 *rigid plastic packaging containers by the product manufacturer*
14 *whose containers have not been considered source reduced, or a*
15 *particular type of rigid plastic packaging container that is used*
16 *to hold a similar product by other product manufacturers, as*
17 *determined by the department,* whose containers have not been
18 considered source reduced.

19 (2) A rigid plastic packaging container is not a source reduced
20 container for the purposes of this chapter if the ~~packaging~~ reduction
21 was achieved by any of the following:

22 (A) Substituting a different material type for a material that
23 previously constituted the principal material of the container.

24 (B) Increasing a container's weight per unit ~~or use of product~~
25 *number of product uses* after January 1, 1991.

26 (C) Packaging changes that adversely affect the potential for
27 the rigid plastic packaging container to be recycled or to be made
28 of postconsumer material.

29 (k) "Product-associated rigid plastic packaging container" means
30 a brand-specific, rigid plastic packaging *container* line that may
31 have one or more sizes, shapes, or designs and that is used in
32 conjunction with a particular generic product line.

33 (l) "PETE" means polyethylene terephthalate as specified in
34 subdivision (a) of Section 18015.

35 (m) "HDPE" means high-density polyethylene.

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 a local agency or school district has the authority to levy service
39 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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